

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed January 26, 2005. In order to advance prosecution of the present Application, Claims 1, 9, 10, 16-18, 20, and 23 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1, 2, 4, 5, 7-11, and 13-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cao, et al. in view of McAllister, et al. Independent Claims 1, 10, and 17 recite in general the ability to send a third message over a reverse notification path, from a second switch to a first switch, in response to the second switch receiving traffic flow from the first switch over the working path in order to control protection switching by the first switch. By contrast, the Cao, et al. application performs protection switching at its downstream egress router as opposed to the upstream first switch of the claimed invention. Moreover, the Examiner readily admits that the Cao, et al. application does not disclose the sending of the third message. To support the deficiency in the Cao, et al. application, the Examiner cites the keep-alive polling process of the McAllister, et al. patent. However, the McAllister, et al. patent requires the constant sending of keep-alive protocol messages and the return of acknowledgment messages independent of the transfer of traffic flow over a working path in a network. These poll and stat messages have no relationship with the traffic flow in the network of the McAllister, et al. patent. Thus, the McAllister, et al. patent does not send a third message from a second switch to a first switch in response to traffic flow being received at the second switch from the first switch over a working path as required by the claimed invention.

Moreover, the Cao, et al. application would not be able to use the acknowledgment messages generated by the McAllister, et al. patent as the Cao, et al. application would still perform protection switching at a downstream router as opposed to an upstream router as would be required by the claimed invention. Therefore, Applicant respectfully submits that Claims 1, 2, 4, 5, 7-11, and 13-24 are patentably distinct from the proposed Cao, et al. - McAllister, et al. combination.

Claims 3 and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cao, et al. in view of McAllister, et al. and further in view of Aukia, et al. Independent Claim 1, from which Claim 3 depends, and Independent Claim 10, from which Claim 12 depends, have been shown above to be patentably distinct from the proposed Cao, et al. - McAllister, et al. combination. Moreover, the Aukia, et al. patent does not include any additional disclosure combinable with either the Cao, et al. application or the McAllister, et al. patent that would be material to patentability of this claim. Therefore, Applicant respectfully submits that Claims 3 and 12 are patentably distinct from the proposed Cao, et al. - McAllister, et al. - Aukia, et al. combination.

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Cao, et al. in view of McAllister, et al. and further in view of Lemieux. Independent Claim 1, from which Claim 6 depends, has been shown above to be patentably distinct from the proposed Cao, et al. - McAllister, et al. combination. Moreover, the Lemieux patent does not include any additional disclosure combinable with either the Cao, et al. application or the McAllister, et al. patent that would be material to patentability of this claim. Therefore, Applicant respectfully submits that Claims 3 and 12 are patentably

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distinct from the proposed Cao, et al. - McAllister, et al. -
Lemieux combination.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,
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